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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY DAVALOS,
Plaintiff,

v.

KILOLO KIJAKAZI,
ACTING COMMISSIONER OF
SOCIAL SECURITY,
Defendant.

No. 1:22-CV-01093 (GSA)

**STIPULATION AND ORDER FOR
AWARD AND PAYMENT OF
ATTORNEYS FEES AND COSTS
PURSUANT TO THE EQUAL ACCESS TO
JUSTICE ACT (28 U.S.C. §§1920, 2412(d))**

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
2 attorneys, subject to the approval of the Court, that Mark Anthony Davalos (“Plaintiff”) be
3 awarded attorney fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. §2412 (d), in
4 the amount of six hundred and forty-six dollars and eleven cents (\$646.11) and four hundred and
5 two dollars and no cents (\$402.00) in costs under 28 U.S.C. §1920. The amounts represent
6 compensation for all legal services rendered on behalf of Plaintiff by Plaintiff’s counsel in
7 connection with this civil action, in accordance with 28 U.S.C. §2412 (d), and for associated costs
8 under 28 U.S.C. §1920.

9 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider
10 the matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s counsel. Pursuant to *Astrue v.*
11 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
12 attorney fees are subject to any offset allowed under the United States Department of the
13 Treasury’s Offset Program. After the Order for EAJA fees is entered, the government will
14 determine whether they are subject to any offset.

15 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
16 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the
17 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively
18 “Plaintiff’s counsel”), pursuant to the assignment executed by Plaintiff. Any and all payments
19 made shall be delivered to Plaintiff’s counsel.

20 This stipulation constitutes a compromise settlement of Plaintiff’s request for EAJA
21 attorney fees and costs and does not constitute an admission of liability on the part of Defendant
22 under EAJA or otherwise. Payment of the agreed amounts shall constitute a complete release
23 from, and bar to, any and all claims that Plaintiff and/or Plaintiff’s counsel may have relating to
24 EAJA attorney fees and costs in connection with this action.

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This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. §406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: February 24, 2023

NEWEL LAW

By: Melissa Newel
Melissa Newel
Attorney for Plaintiff
MARK ANTHONY DAVALOS

Dated: February 24, 2023

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

By: Mary Tsai*
MARY TSAI
(*Authorized by email dated 02/23/2023)
Special Assistant U.S. Attorney
Attorneys for Defendant

ORDER

It is ORDERED that, pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412(d), attorney fees in the amount of **four hundred and forty-six dollars and eleven cents (\$646.11)** and **four hundred and two dollars and no cents (\$402.00)** in costs to be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: February 27, 2023

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE